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3/14/96

EXECUTION COPY

FACILITIES LEASE

between

THE PORT OF PORTLAND

(the "Issuer")

and

PORTLAND BULK TERMINALS, L.L.C.

(the "Company")

Relating To The
Issuance Of

\$48,000,000

**The Port of Portland
Special Obligation Revenue Bonds
Series 1996
(Portland Bulk Terminals, L.L.C. Project)**

Dated as of March 14, 1996

ATER WYNNE HEWITT DODSON & SKERRITT

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and is not part of this Facilities Lease.)

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FACILITIES LEASE

This FACILITIES LEASE (the "Agreement") dated as of March 14, 1996 is between THE PORT OF PORTLAND, a political subdivision of the State of Oregon (the "Issuer") and PORTLAND BULK TERMINALS, L.L.C., an Oregon limited liability company (the "Company").

RECITALS:

WHEREAS, in accordance with the Oregon Revised Statutes Chapter 778, as amended (the "Act"), the Issuer has the authority to enter into transactions contemplated by this Facilities Lease and to carry out its obligations hereunder, and the facilities being financed under this Agreement and described in Exhibit A hereof (the "Project") constitute dock and wharf or facilities that are functionally related and subordinate thereto within the meaning of Section 142(a)(2) of the Code; and

WHEREAS, the Issuer agrees to lease the Project to the Company and the Company agrees to lease the Project from the Issuer pursuant to the terms of this Agreement; and

WHEREAS, to finance the cost of acquiring the Project, the Issuer proposes to issue its \$48,000,000 aggregate principal amount of its Special Obligation Revenue Bonds, Series 1996 (Portland Bulk Terminals, L.L.C. Project) (the "Series 1996 Bonds"), which will mature, bear interest, be redeemable, and have the other terms and provisions set forth in the Ordinance (as defined below); and

WHEREAS, the Series 1996 Bonds will be issued under Ordinance No. 379-B enacted on June 14, 1995 as amended by Ordinance No. 384-B, executed January 10, 1996 and as supplemented by the Supplemental Action dated March 14, 1996 (collectively, the "Ordinance") under the terms of which the Issuer will assign and pledge all of its right, title and interest in the Revenues (as defined in the Ordinance) to the payment of the principal of, premium, if any, and interest on the Series 1996 Bonds and any Additional Bonds (collectively, the "Bonds") as the same become due;

NOW, THEREFORE, the parties hereto, intending to be legally bound hereby and for and in consideration of the premises and the mutual covenants herein contained, do hereby agree as follows:

ARTICLE I

DEFINITIONS; ORDINANCE CONTROLS

Section 1.1. Definitions. In addition to the words and terms elsewhere defined herein, including the preamble hereto, or defined in the Ordinance, the following words and terms shall have the following meanings unless the context or use clearly indicates another or different meaning or intent:

"Administrative Expenses" means the reasonable and necessary fees and expenses incurred by the Issuer for legal counsel and consultants engaged by the Issuer in the administration of this Agreement, the Ground Lease and the Ordinance.

"Administrative Fee" means the administrative fee which shall be payable in an amount equal to 1/8 of one percent of the aggregate outstanding principal amount of the Bonds.

"Company Documents" means those basic documents to which the Company is a party, namely the Facilities Lease, the Construction Contract, the Ground Lease, the Bond Purchase Agreement, the Remarketing Agreement, the Credit Facility, and any other documents executed by the Company in connection with the issuance of the Bonds or the execution of this Agreement.

"Construction Contract" means the construction contract by and among the Issuer, Hall-Buck Marine, Inc. and the Company.

"Default Rate" means eighteen percent (18%) per annum.

"Environmental Laws" means Environmental Laws as defined in Section 6.2.1 of the General Lease.

"Hazardous Substances" means Hazardous Substances as defined in Section 6.2.2 of the Ground Lease.

"Lease Term" means the term of this Agreement, which shall commence on the Bond Issuance Date and shall expire at midnight, October 1, 2025 (or if at such date all payments required to be paid by the Company pursuant to this Agreement shall not have been paid, then on such date as such payments shall have been paid or discharged), unless this Agreement shall be terminated prior to October 1, 2025 in accordance with the terms hereof.

"Plans" means the designs, plans and specifications for the Project.

"Property" has the meaning assigned thereto in the Ground Lease.

"Qualified Project Costs" means the costs of acquiring, designing, equipping or constructing facilities, which costs were incurred or paid on or after January 7, 1995 and which facilities:

- (a) constitute docks or wharves; or
- (b) are storage or training facilities directly related to docks and wharves and physically located on or adjacent to docks and wharves; or
- (c) are functionally related and subordinate to docks and wharves and (i) are of a character and size commensurate with the character and size of the related docks and wharves, and (ii) are located at or adjacent to the related docks and wharves.

Section 1.2. Conflicting Provisions. The terms of the Ordinance are incorporated into this Agreement by this reference as if the same were set forth fully herein and if any of the provisions of this Agreement conflict in any respect with the provisions of the Ordinance and cannot be reconciled, the provisions of the Ordinance shall control. During the Lease Term, if the terms and provisions of this Agreement are in direct and irreconcilable conflict with those of the Ground Lease, the terms and provisions of this Agreement control and the Ground Lease shall be deemed amended accordingly. It shall not be deemed a conflict within the meaning of this Section 1.2. if the requirements of the Ground Lease exceed the scope of the requirements of this Agreement and/or impose additional requirements not included in this Agreement but not prohibited by it.

Section 1.3. Limited Obligations. Notwithstanding anything herein contained to the contrary, any obligation the Issuer may hereby incur for the payment of money shall not constitute a debt or a pledge of the faith and credit of the Issuer or of the State or of any political subdivision thereof, but shall be a special and limited obligation of the Issuer payable solely from:

- (a) the Revenues,
- (b) proceeds derived from the sale of the Bonds, and
- (c) amounts on deposit from time to time in the Bond Fund (except for moneys held in the Rebate Account),

subject to the provisions of this Agreement and the Ordinance permitting the application thereof for the purposes and on the terms and conditions set forth herein and therein.

ARTICLE II

REPRESENTATIONS AND WARRANTIES

Section 2.1. Representations and Warranties of Issuer. As of the Bond Issuance Date, the Issuer hereby represents and warrants as follows:

(a) The Issuer is a political subdivision of the State duly organized and validly existing under the constitution and laws of the State, with full legal right, power and authority to enter into and perform its obligations under the Net Lease, the Ordinance and the Bond Purchase Agreement.

(b) Under the provisions of the Act, the Issuer has the power and authority to enter into the transactions contemplated by the Net Lease, the Ordinance and the Bond Purchase Agreement, and to carry out its obligations hereunder and thereunder, and it has complied with all provisions of the Act in all manners relating to such transactions.

(c) The Issuer, by proper action, has duly authorized the execution and delivery of the Net Lease, the Ordinance and the Bond Purchase Agreement, all of which have been duly executed and delivered by the Issuer and constitute legal, valid and binding obligations of the Issuer, enforceable against the Issuer in accordance with their terms.

(d) The Project is of a type authorized and permitted by the Act.

(e) The Issuer will not knowingly take any action that results in the interest paid on the Bonds being included in the gross income of the holders thereof for purposes of federal income taxation and will not use or cause the proceeds of the Bonds or any other amount held by the Trustee under the Ordinance or any investment earnings thereon to be used or invested in a manner that will cause the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code.

(f) Notwithstanding anything contained herein to the contrary, any obligation the Issuer may hereby incur for the payment of the Bonds shall not give rise to a pecuniary liability of the Issuer or the State or a charge against the general credit or taxing powers of the Issuer, but shall be a special limited obligation of the Issuer payable solely from the Trust Estate.

(g) Neither the execution and delivery of the Bonds, the Net Lease, the Ordinance or the Bond Purchase Agreement, the consummation of the transactions contemplated thereby and hereby, nor the fulfillment of or compliance with the terms and conditions or provisions thereof and hereof materially conflicts with or results in the breach of any of the terms, conditions or provisions of any constitutional provision or

statute or regulation of the State or of any agreement, instrument, judgment, order or decree to which the Issuer is now a party or by which it is bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any prohibited lien, charge or encumbrance of any nature or upon any property or assets of the Issuer under the terms of any instrument or agreement.

(h) To the best of the Issuer's knowledge, after reasonable inquiry, there is no action, suit, proceeding, inquiry or investigation pending or threatened against the Issuer by or before any court or governmental agency or public board or body that:

(i) affects or seeks to prohibit, restrain or enjoin the sale, issuance, execution, delivery or payment of the Bonds, or the lease of the Project to the Company; or

(ii) affects or seeks to prohibit, restrain or enjoin the execution, delivery or performance of the Net Lease, the Ordinance, or the Bond Purchase Agreement; or

(iii) affects or questions the organization, powers or authority of the Issuer to carry out the transactions contemplated by the Net Lease, the Ordinance, the Bond Purchase Agreement, or the Bonds, or the right of the officers of the Issuer to hold their respective offices; or

(iv) affects or questions the validity or enforceability of the Net Lease, the Ordinance, the Bond Purchase Agreement, or the Bonds; or

(v) questions the tax-exempt status of the Bonds.

(i) No approval, authorization, license, permit, order or consent of, or declaration, registration or filing with any governmental or administrative authority, commission, board, agency, or instrumentality is required for the valid execution and delivery by the Issuer of the Net Lease, the Ordinance and the Bond Purchase Agreement or the issuance of the Bonds except those that have been duly obtained or made; provided, however, no representation is made herein about compliance with the securities or "blue sky" laws of any jurisdiction.

(j) The Issuer's rights, title, and interest in the Revenues (except for its rights to fees and indemnification hereunder) will be irrevocably assigned to the Trustee, without recourse, as security for payment of the principal of, premium, if any, and interest on the Bonds.

Section 2.2. Representations and Warranties of Company. As of the Bond Issuance Date, the Company hereby represents and warrants as follows:

(a) The Company is a limited liability company duly qualified and validly existing under the laws of the State and is qualified to do business under the laws of the State of Oregon.

(b) The Company has full power and authority to carry on its business as now conducted and to enter into the Company Documents, and the execution and delivery of the Company Documents have been authorized by proper corporate action. The Company Documents and all other agreements entered into by the Company contemplated herein or in the Ordinance constitute valid and legally binding obligations of the Company.

(c) Except as have been obtained, no consent or approval of any trustee or holder of any indebtedness or obligation of the Company or any subsidiary, and no consent, approval, permission, authorization, order or license of any governmental authority is required to be obtained by the Company for the execution and delivery of the Company Documents or any other instrument or agreement required to be executed by the Company on or prior to the Bond Issuance Date for the fulfillment of and compliance with the Company Documents. The Company has all requisite licenses and permits to carry on its business or will obtain such licenses and permits when required by law.

(d) The Company is not subject to any charter, bylaw or contractual limitation or provision of any nature whatsoever which in any way materially limits, restricts or prevents the Company from entering into the Company Documents or from performing any of its obligations thereunder. Neither the execution and delivery of the Company Documents and the consummation of the transactions contemplated thereby, nor the fulfillment of or compliance with the provisions thereof (i) conflicts with, violates or breaches any charter or bylaw of the Company, any of the terms, conditions or provisions of any indenture, instrument or agreement to which the Company is a party or by which the Company is bound, or any statute, rule or regulation, or any judgment, decree or order of any court or agency binding on the Company, (ii) constitutes a material default under any of the foregoing which has not been waived or consented to in writing by the appropriate party or parties, or (iii) results in the creation or imposition of any lien, charge, security interest or encumbrance of any nature whatsoever upon any of the property or assets of the Company not permitted under the terms of any restriction, agreement, instrument, statute, governmental rule or regulation, court order, judgment or decree or which would have a material adverse effect on the Company's ability to perform its obligations under the Company Documents; provided, however, the Company makes no representation or warranty about the application of any state blue sky laws to the Company Documents or the applicability of any registration or qualification requirements under the Securities Act of 1933, as amended, or the Trust Indenture Act of 1939, as amended, to the Bonds or the Ordinance.

(e) To the best of the Company's knowledge, after reasonable inquiry, there is no action, suit, proceeding, inquiry or investigation by or before any court, governmental agency or public board or body pending or threatened against the Company that:

(i) affects or seeks to prohibit, restrain or enjoin the issuance, sale or delivery of the Bonds or the execution and delivery of the Company Documents;

(ii) affects or questions the validity or enforceability of the Bonds, the Ordinance, or the Company Documents;

(iii) questions the tax-exempt status of the interest on the Bonds; or

(iv) questions the power or authority of the Company to carry out the transactions contemplated by, or to perform its obligations under, the Company Documents or the powers of the Company to operate the Project.

(f) The acquisition and construction of the Project shall constitute the first use of such property within the meaning of Section 147(d) of the Code and the rules and regulations promulgated thereunder.

(g) Each certificate signed by the Authorized Company Representative and delivered pursuant to the Company Documents or the Ordinance shall be deemed to be a representation and warranty by the Company as to the statements made therein.

(h) The Company hereby makes an irrevocable election (binding on the Company and all successors in interest) not to claim depreciation or an investment credit with respect to the Project.

(i) The Lease Term is not more than 80 percent of the reasonably expected useful life of the Project, and the Company has no option to renew this Agreement.

(j) To the best of the Company's knowledge, the Company has not taken, or suffered to be taken, any action, nor has the Company omitted to take any action, that resulted or would result in the interest on the Bonds being or becoming includable for federal income tax purposes in the gross income of the Owners of the Bonds, and to the best of the Company's knowledge after due inquiry and due consultation with counsel, there are no facts or circumstances that would result in the interest on the Bonds becoming includable for federal income tax purposes in the gross income of the Owners of the Bonds.

Section 2.3. Covenants of Company. The Company hereby covenants as follows:

(a) The Company will cause the Project to be constructed in such a manner as to conform with all applicable zoning, planning, land use, building, environmental and other laws and regulations of governmental authorities having jurisdiction over the Project. The Company has obtained or will obtain all necessary utilities for the Project and has obtained or will obtain all approvals and licenses necessary for the construction and operation of the Project and use of the Project for its intended purposes, and the Company has complied with and will continue to comply with all legal requirements relating to the Project and the operation, repair and maintenance of the Project.

(b) The Company will requisition moneys from the Construction Fund for expenses that constitute Costs of Construction and that are eligible to be paid from proceeds of Bonds under the Act, and, to the extent necessary to meet the requirements of Section 2.3(f) hereof, constitute Qualified Project Costs.

(c) The Company shall cause the Project to be constructed in a good and workmanlike manner in accordance with the Ground Lease, the Construction Contract and Plans approved by the Issuer.

(d) The Company will not use any of the funds provided by the Issuer, or any other funds, nor under circumstances within its reasonable control will it permit any of the funds provided by the Issuer, or any other funds, to be used in a manner that would impair the exclusion of interest on the Bonds from gross income tax for federal income tax purposes.

(e) The average maturity of the Bonds will not exceed 120 percent of the average reasonably expected useful life of the Project, calculated according to Section 147(b) of the Code.

(f) At least 95 percent of the net proceeds of the Bonds and the interest earnings thereon will be used to pay Qualified Project Costs. For this purpose, "net proceeds" shall mean the issue price of the Bonds, less pre-issuance accrued interest and less any portion of the issue price deposited in any debt service reserve fund, if any.

(g) Not more than 2 percent of the proceeds of the Bonds will be used to pay the costs of issuance of the Bonds, including, without limitation, the fees and expenses of Bond Counsel, Issuer's counsel and the Underwriter's fee in connection with the sale and issuance of the Bonds. For this purpose, "proceeds" shall mean the issue price of the Bonds, less accrued interest.

(h) The Company will not cause the Bonds to be treated as "federally guaranteed" obligations for purposes of Section 149(b) of the Code. For purposes of this paragraph and based on the Code on the date hereof, the Bonds shall be treated as

"federally guaranteed" if none of the exceptions described in Section 149(b)(3) of the Code apply and:

- (i) all or any portion of the principal or interest is or will be guaranteed directly or indirectly by the United States of America or any agency or instrumentality thereof; or

- (ii) 5 percent or more of the proceeds of the Bonds will be

- (A) used in making loans the payment of principal or interest with respect to which is to be guaranteed in whole or in part by the United States of America or any agency or instrumentality thereof; or

- (B) invested directly or indirectly in federally insured deposits or accounts.

- (i) No amount of the net proceeds of the Bonds will be used, directly or indirectly, to provide any airplane, skybox or other luxury box, facility primarily used for gambling, a retail store the principal business of which is the sale of alcoholic beverages for consumption off premises, any health club facility, any lodging facility, any retail facility (including food and beverage facilities) in excess of a size necessary to serve customers and employees at the Project, any retail facility (other than parking) for passengers or the general public located outside the Project, any office building for individuals who are not employees of a governmental unit, or any industrial park or manufacturing facility.

- (j) No portion of the proceeds of the Bonds will be used (directly or indirectly) to acquire land or any interest in land.

- (k) No portion of the proceeds of the Bonds will be used (directly or indirectly) to provide an office, other than one that is

- (i) located on the premises of the Project, and

- (ii) no more than a de minimis amount of the functions to be performed at such office are not directly related to the day-to-day operations of the Project.

- (l) The Company will not use or cause the proceeds of the Bonds, or any other amounts subject to Section 148 of the Code or any other amounts held by the Trustee under the Ordinance or any investment earnings thereon, to be used or invested in a manner that will cause the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code.

(m) While Bonds are Outstanding, the Company will not change the use of the Project in a manner that would jeopardize the exclusion of interest on the Bonds from gross income for federal income tax purposes.

(n) The Project has not been and will not be designed differently, sized larger, built sooner or constructed in a more costly manner than is reasonably necessary for the purposes of the Company.

Section 2.4. Survival of Representations and Warranties. The representations and warranties set forth in this Article II shall remain in full force and effect and shall survive until all principal, premium (if any), and interest on the Bonds has been paid and all rebates due or to become due to the United States government have been paid.

ARTICLE III

COMMENCEMENT AND COMPLETION OF PROJECT FACILITIES; ISSUANCE OF BONDS

Section 3.1. Agreement Regarding the Construction of Project Facilities.

(a) The Company will proceed with reasonable speed and dispatch to cause the acquisition and construction of the Project substantially in accordance with the Plans as prepared by the Company in reasonable detail and delivered to and approved by the Issuer, including any supplements, amendments, changes and additions thereto proposed by the Company and, with respect to all material structural changes to the Project, approved by the Issuer or requested by the Issuer in writing and approved by the Company, all of the foregoing in accordance with Section 2.3 hereof. No material supplements, amendments, changes or additions to the Project shall materially change the descriptions set forth in Exhibit A hereto, or change the function of any principal component described in Exhibit A hereto, unless there shall be filed with the Issuer and the Trustee the written Approval of Bond Counsel. In the event of such a change in the descriptions set forth in the exhibits hereto, and following receipt by the Issuer and the Trustee of such Approval of Bond Counsel, the Issuer and the Company shall amend any or all of the exhibits to this Agreement to reflect the change.

(b) In no event shall any changes or revisions in Plans:

(i) cause the Project, or any portion thereof, to be structurally unsound or unsafe or hazardous;

(ii) provide for use of the Project, or any portion thereof, for purposes other than those agreed to by the Issuer under the Ground Lease, unless approved in writing by the Issuer;

(iii) adversely affect the qualification of the Project as a financeable project under the Act or impair the exclusion of interest on any of the Bonds from gross income for federal income tax purposes (except in respect to "substantial users" and "related persons" as described in Section 147(a)(1) of the Code); or

(iv) fail to comply with or be inconsistent with the terms and conditions of this Agreement.

(c) Unless otherwise provided in the Ground Lease, all Issuer approvals required by this Section 3.1 shall not be unreasonably withheld. The Trustee shall not have any right pursuant to this Agreement or the Ordinance to approve any supplements, amendments, changes and additions to or deletions from the Plans or the Project.

(d) The Plans, including any supplements, amendments and additions thereto, and as-built Plans, in form as stipulated by the Issuer, shall be filed by the Company with the Issuer.

The Company shall not be deemed to be in default under the provisions of this Section 3.1 if the construction of all or any portion of the Project shall be delayed or prevented by extraordinary acts of nature, major fire, war or labor strikes, or government restrictions or regulations or other extraordinary casualties beyond the control of the Company which directly impede or restrict the Company's ability to operate its business or to otherwise perform its obligations as required hereunder; *provided, however*, that if any of such events occur in connection with the construction of all or any portion of the Project, the Company shall inform the Issuer of such a situation as soon as is reasonably possible and, in good faith, use all reasonable efforts to remedy the cause or causes preventing it from carrying out such construction.

Section 3.2. Agreement to Issue Bonds.

(a) To provide funds for payment of Costs of Construction, the Issuer agrees to issue the Bonds in an aggregate principal amount of \$48,000,000.

(b) The Company hereby approves the terms, provisions and conditions of the Ordinance.

Section 3.3. Application of Proceeds of Bonds. The proceeds of the Bonds shall be deposited with the Trustee in the funds and accounts specified in the Ordinance. The application of such proceeds shall be subject to the conditions set forth in the Ordinance.

Section 3.4. Establishment of Completion Date. The Completion Date (as defined in the Ordinance) of the Project financed by the Bonds shall be evidenced to the Issuer and the Trustee by a certificate signed by the Authorized Company Representative to the effect that:

(a) the construction has been completed substantially in accordance with the Plans therefor; and

(b) except for amounts to be retained by the Trustee for Costs of Construction not then due and payable (including, without limitation, interest on the Bonds payable after the applicable Completion Date as permitted by the Act, the Ordinance and the Code) and except for Costs of Construction for which the Company has withheld payments or is contesting payment, all costs and expenses for labor, services, materials and supplies used in the construction of the Project for which payment is due, have been paid in full.

Moneys remaining in the Construction Fund (including any earnings on investments remaining in the Construction Fund) after the Completion Date shall be applied according to

Section 4.6(c) of the Ordinance. Notwithstanding the foregoing, the certificate of completion shall state that it is given without prejudice to any rights of the Issuer or the Company, as the case may be, against third parties which exist at the date of such certificate or which may subsequently come into being.

Section 3.5. Company Required to Pay Costs of Construction in Event Proceeds of Bonds Insufficient.

(a) If moneys in the Construction Fund for payment of the Costs of Construction are not sufficient to pay such Costs of Construction in full, the Company shall complete and pay all Costs of Construction in accordance with the Plans, as such Plans may be modified with the approval of the Issuer (which approval shall not be unreasonably withheld) at the Company's expense.

(b) The Issuer does not make any warranty, either express or implied, that the moneys paid into the Construction Fund and available for payment of the Costs of Construction will be sufficient for such purpose. The Company agrees that if, after exhaustion of such moneys, the Company should pay any portion of the Costs of Construction pursuant to the provisions of this Section 3.5, it shall not be entitled to any reimbursement therefor from the Issuer or from the Owners of any Bonds, nor shall the Company be entitled to any diminution of the Facilities Rent payable under Article IV hereof.

Section 3.6. Company to Pursue Remedies Against Contractors, Subcontractors and Suppliers and Their Sureties. In the event of default of any contractor, subcontractor or supplier under any contract made in connection with the Project, the Company will, but solely at its own expense, if in its discretion it deems it appropriate, promptly proceed, either separately or in conjunction with the Issuer, if the Issuer consents (which consent shall not be unreasonably withheld) or with others, to pursue the remedies of the Company against the contractors, subcontractors or suppliers so in default and against any surety for the performance of such contractor, subcontractor or supplier. The Company agrees to advise the Issuer and the Trustee of any default by a contractor, subcontractor or supplier material to completion of the Project and any legal actions or proceedings it intends to commence in connection with any such default. Any amount recovered by way of damages, refunds, adjustment or otherwise in connection with the foregoing, after reimbursement to the Issuer and the Company of any cost incurred by them by reason of such default and legal and other related costs expended in prosecuting all claims against such defaulting party, shall

(a) prior to the Completion Date be used to pay Costs of Construction of the Project and

(b) after the Completion Date be paid to the Trustee for deposit into the Bond Fund and applied, at the direction of the Authorized Company Representative,

(i) to purchase Bonds in the open market (excluding any portion of the purchase price which is attributable to interest accrued and/or accruing on such Bonds until the date of purchase) for the purpose of cancellation;

(ii) to redeem Bonds (paying principal sums only) and for the purpose of cancellation; or

(iii) used to pay the principal of, prepayment premium, and/or interest on the Bonds, as applicable; or

(iv) used to pay Costs of Construction of the Project;

provided that prior to exercising the rights set out in 3.6(b)(iii) or (iv) above, the Company shall deliver to the Trustee and the Issuer an Approval of Bond Counsel to the effect that such transfer will not impair the exclusion of the interest on the Bonds from gross income for federal income tax purposes.

The Issuer shall be required to participate in any legal action or proceedings only to the extent the Issuer, its officers and employees are fully indemnified by the Company in connection therewith and the Company pays all of Issuer's legal costs and expenses, using legal counsel acceptable to the Issuer.

Section 3.7. Title to Project. All right, title and interest in the Project, including any portion thereof heretofore or hereafter acquired or constructed, whether constituting real, personal or mixed property, shall vest and remain in the Issuer, subject to the leasehold estate of the Company created by this Agreement and the Ground Lease. The Company hereby conveys and transfers to the Issuer all of its present and future right, title and interest in and to the Project now or hereafter constructed or acquired other than the leasehold estate hereby created. The Company agrees to execute any further deed, conveyance, bill of sale or other written instrument necessary to convey any interest the Company may have in the Project to the Issuer, subject to the leasehold estate of the Company created by this Agreement. Nothing in this Section 3.7 shall cause any Company property installed in or on the Project and not financed with proceeds of the Bonds to become part of the Project, so long as such Company property does not constitute a "fixture," within the meaning of Oregon Revised Statutes 79.3130(a), and such Company property may not be removed except as provided in the Ground Lease.

Section 3.8. No Warranty by Issuer. THE COMPANY RECOGNIZES AND AGREES THAT THE ISSUER HAS NOT MADE AN INSPECTION OF THE PROJECT OR OF ANY FIXTURE, ITEM OF EQUIPMENT OR OTHER ITEM CONSTITUTING A PORTION THEREOF, AND THE ISSUER MAKES NO WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED, WITH RESPECT TO THE SAME OR THE LOCATION, USE, DESCRIPTION, DESIGN, MERCHANTABILITY, FITNESS FOR USE OR FOR ANY PARTICULAR PURPOSE, CONDITION OR DURABILITY THEREOF OR THAT THE PROJECT WILL BE CONSTRUCTED OR COMPLETED, OR THAT THERE WILL BE

SUFFICIENT CAPITALIZED INTEREST FOR PAYMENT OF DEBT SERVICE ON THE BONDS, IT BEING AGREED THAT ALL RISKS INCIDENT THERETO ARE TO BE BORNE BY THE COMPANY. IN THE EVENT OF ANY DEFECT OR DEFICIENCY OF ANY NATURE IN THE PROJECT OR ANY FIXTURE, ITEM OF EQUIPMENT OR OTHER ITEM CONSTITUTING A PORTION THEREOF, WHETHER PATENT OR LATENT, IN THE EVENT THAT THE PROJECT IS NOT CONSTRUCTED OR COMPLETED, OR IN THE EVENT THERE IS INSUFFICIENT CAPITALIZED INTEREST TO PAY DEBT SERVICE ON THE BONDS, OR IN THE EVENT THERE ARE INSUFFICIENT BOND PROCEEDS TO COMPLETE THE PROJECT, THE ISSUER SHALL HAVE NO RESPONSIBILITY OR LIABILITY WITH RESPECT THERETO. THE PROVISIONS OF THIS SECTION 3.8 HAVE BEEN NEGOTIATED AND ARE INTENDED TO BE A COMPLETE EXCLUSION AND NEGATION OF ANY WARRANTIES OR REPRESENTATIONS BY THE ISSUER, EXPRESS OR IMPLIED, WITH RESPECT TO THE PROJECT OR ANY FIXTURE, ITEM OF EQUIPMENT OR OTHER ITEM CONSTITUTING A PORTION THEREOF, WHETHER ARISING PURSUANT TO THE UNIFORM COMMERCIAL CODE OF THE STATE OR ANOTHER LAW NOW OR HEREAFTER IN EFFECT. NOTHING IN THIS SECTION 3.8 SHALL NEGATE THE WARRANTIES MADE BY THE ISSUER IN SECTION 2.1 HEREOF OR IN THE GROUND LEASE.

Section 3.9. Requisitions. In accordance with Section 4.6(b) of the Ordinance, the Company shall file with the Trustee written requisitions for disbursements from the Construction Fund as may be approved by an Authorized Issuer Representative, which requisitions shall be substantially in the form attached as Exhibit B hereto.

ARTICLE IV

LEASE OF PROJECT AND COMPANY PAYMENTS

Section 4.1. Term of Facilities Lease and Provisions for Facilities Rent. The Issuer agrees to lease the Project to the Company and the Company agrees to lease the Project from the Issuer pursuant to the terms of this Agreement. The term of this Agreement shall be the Lease Term. For the Lease Term and in compliance with its covenant in Section 4.4 below, the Company agrees to pay or cause to be paid to the Issuer the following Facilities Rent at the following times and in the following amounts free and clear of all charges and whether the Project is capable of being occupied and used by the Company or not:

- (a) With respect to any Outstanding Bonds,
 - (i) on a Principal Payment Date, an amount equal to the principal due on such Bonds (whether by reason of maturity or acceleration or otherwise) on such Principal Payment Date, and
 - (ii) on each Interest Payment Date, an amount equal to the interest due on such Bonds on such Interest Payment Date;
 - (iii) on each Redemption Date, an amount equal to the principal, accrued interest and redemption premium, if any, due and payable on such Bonds on such Redemption Date; and
 - (iv) on each Mandatory Purchase Date and Purchase Date, an amount equal to the Purchase Price of Bonds tendered for purchase and not remarketed.

provided, however, the Company shall receive a credit against any Facilities Rent due under this Section 4.1(a) and such obligation shall be deemed satisfied in the amount of any sum required to be paid under this Section 4.1(a) which is paid from any amounts on hand available for such purposes under the Ordinance including any payment made by a draw under the Credit Facility.

(b) So long as the Bonds are Outstanding, Facilities Rent shall be payable at such times and in such amounts, together with moneys available therefor under the Ordinance, so as to ensure compliance with the rebate provisions of Section 148 of the Code.

(c) In accordance with Section 5.2 of this Agreement, the Issuer directs, and the Company agrees to pay, Facilities Rent directly to the Trustee in immediately available funds unless otherwise specifically provided herein solely with regard to payments described above in Section 4.1(b).

Notwithstanding any provision to the contrary, the Company's obligation to pay when due the amounts required by this Section 4.1 is an absolute and unconditional obligation of the Company that survives expiration of the Lease Term and termination of this Agreement.

Section 4.2. Other Payment Obligations of Company. The Company shall make prompt payment of all amounts payable pursuant to this Agreement when and as such payments become due. In addition, until payment in full of the Bonds shall have been made, and commencing on the Bond Issuance Date, the Company agrees to pay free and clear of all charges and whether the Project is capable of being occupied and used by the Company or not:

- (a) directly to the Issuer, all Administrative Expenses;
- (b) directly to the Trustee, the Ordinary Expenses and Extraordinary Expenses of the Trustee for acting as trustee, Registrar, and Paying Agent hereunder and under the Ordinance; and
- (c) directly to the Tender Agent, the Remarketing Agent, and the Credit Provider all fees and expenses due.

Interest on Administrative Expenses payable pursuant to this Agreement that are not paid when due shall accrue at the Default Rate until paid, *provided, however*, the Company shall not owe any such interest on any unpaid Administrative Expense if it is the prevailing party in any dispute regarding its obligation to pay such Administrative Expense. Notwithstanding any provision to the contrary, the Company's obligation to pay when due the amounts required by this Section 4.2 arising prior to the expiration or termination of this Agreement shall survive expiration of the Lease Term and termination of this Agreement. The Company shall pay the Issuer the Administrative Fees annually in advance on the anniversary date of the Bond Issuance Date.

Section 4.3. Optional Prepayment of Facilities Rent. The Company may, at its option, prepay the Facilities Rent in whole or in part on any Redemption Date at the price or prices provided in the Supplemental Action and in accordance with the Ordinance.

Section 4.4. Certain Obligations Absolute and Unconditional. Until such time as the principal of, premium, if any, and interest on the Bonds shall have been paid in full or provision for the payment thereof shall have been made in accordance with this Agreement and the Ordinance, (1) the Company's obligation to make the Facilities Rent payments required to be made under this Agreement shall be absolute and unconditional, and (2) unless otherwise provided herein, the Company shall not terminate this Agreement. In each case stated above, such obligations shall be absolute and unconditional notwithstanding the failure to complete or operate the Project, termination of the Ground Lease, any acts or circumstances that may constitute failure of consideration, sale, loss, destruction, or condemnation of or damage to the Project or commercial frustration of purpose, any change in the tax or other laws of the United States of America, Canada or of the State or province or any political subdivision of either or

any failure of the Issuer to perform and observe any covenant, term or condition, whether express or implied, or any duty, liability or obligation, arising out of or in connection with this Agreement. Until such time as the principal of, premium, if any, and interest on the Bonds shall have been paid in full or provision for the payment thereof shall have been made in accordance with this Agreement and the Ordinance, the Company agrees that it shall not exercise any rights of set-off, counterclaim, abatement or recoupment to limit its obligations to pay Facilities Rent or indemnify the Issuer under Sections 7.3(b) and 7.11 hereof.

Nothing in this Section 4.4 shall be construed to release the Issuer or the Trustee from the performance of any of the covenants, terms, obligations, duties or conditions applicable to them and, in the event the Issuer or the Trustee should fail to perform any such covenant, term, obligation, duty or condition, the Company may institute such action against the Issuer or the Trustee as the Company may deem necessary to compel such performance and may assert any rights it may have against the Issuer or the Trustee under this Agreement or any other agreement or under any provision of law. The Company agrees, however, as set forth in the preceding paragraph, that, if prevented from exercising rights of set-off, counterclaim, abatement or recoupment under the preceding paragraph, it will pursue all such rights and remedies by way of independent action and not by way of set-off, counterclaim, abatement or recoupment and not in any legal action by the Issuer or the Trustee to recover Facilities Rent or to recover amounts due under Sections 7.3(b) and 7.11 hereof. In consideration for the Company's agreement to pursue such claims in an independent action, the Issuer hereby agrees not to assert by way of a motion, defense, counterclaim, or otherwise, in such independent action by the Company, that the Company's claims are barred as a result of its failure to assert such claims in the action by the Issuer or the Trustee to recover Facilities Rent or in any lawsuit involving performance under the Ground Lease or to recover amounts due under Sections 7.3(b) and 7.11 hereof, including assertions that such claims should be barred by doctrines of res judicata or collateral estoppel or by the requirement for asserting compulsory counterclaims; *provided, however*, if a court in which a claim is pending by the Issuer or the Trustee for the recovery of Facilities Rent or the recovery of amounts due under Sections 7.3(b) and 7.11 hereof from the Company holds, during the course of such proceeding, that any such claims of the Company must be asserted by way of counterclaim or be forever barred, the Company shall have the right to assert such claims by way of counterclaim in the same proceeding.

ARTICLE V

SECURITY PLEDGED

Section 5.1. Financing Statements. The Company and the Issuer agree to execute and file any and all financing statements necessary for the perfection of the security interests granted by the Company to the Issuer hereunder and by the Issuer to the Trustee under the Ordinance. After the Bond Issuance Date, the Trustee will prepare and file any continuation statements and any other documentation necessary to maintain the perfection of those security interests. The Company shall pay all costs of preparing and filing such instruments.

Section 5.2. Facilities Rent Assigned and Pledged. The Company understands and agrees that the Facilities Rent required to be paid to the Issuer under this Agreement is assigned and pledged to the Trustee under the Ordinance. The Company consents to such assignment and pledges and further agrees that all Facilities Rent under this Agreement, unless otherwise specifically provided herein, shall be paid directly to the Trustee for the account of the Issuer and shall be applied as set forth herein and in the Ordinance.

ARTICLE VI

INSURANCE, DAMAGES, CONDEMNATION AND DESTRUCTION

Section 6.1. Insurance. The Company shall maintain the insurance required to be maintained by the Company under the Ground Lease. All insurance shall name the Trustee and the Issuer as additional insureds as provided in the Ground Lease.

Section 6.2. Damage or Destruction. The Company covenants to comply with the damage and destruction provisions set forth in Section 8 of the Ground Lease and Section 4.7 of the Ordinance. Such provisions are incorporated herein by reference as if set forth herein.

Section 6.3. Condemnation. The Company covenants to comply with the eminent domain provisions set forth in Section 12 of the Ground Lease and Section 4.8 of the Ordinance. Such provisions are incorporated herein by reference as if set forth herein. For purposes of the Ordinance and this Agreement, "Gross Award" shall mean the total of amounts awarded to or received by the Issuer and/or the Company as damages, compensation, or otherwise, by reason of the taking of the Project, or any part of the Project as a result of or under written threat of, the exercise of the right of condemnation or eminent domain. The term shall not include any amounts awarded as damages, compensation or otherwise, by reason of the taking as a result of or in anticipation of the exercise of the right of condemnation or eminent domain of any of the land leased to the Company pursuant to the Ground Lease.

Section 6.4. Notice to Trustee. On or before the Bond Issuance Date, the Company shall file with the Trustee and the Issuer a certificate stating that as of the Bond Issuance Date the insurance requirements as provided by Section 6.1 hereof have been met. Such certificate shall remain in full force and effect unless the Trustee and the Issuer are notified in writing by the Company to the contrary.

ARTICLE VII

ADDITIONAL COVENANTS

Section 7.1. Maintenance, Operation and Use of Project; Taxes. The Company will at its own expense maintain and operate the Project, use the Project and cause the Project to be used solely for dock and wharf and storage purposes (as defined in Section 142 of the Code), subject to the covenants and warranties of the Company contained in this Agreement and in the Ground Lease, pay the utilities, Liens, taxes, assessments or other public charges as provided in the Ground Lease free and clear of all charges and regardless of whether the Project is capable of being occupied and used by the Company.

Section 7.2. Governmental Approvals. The Company agrees that it will obtain all Governmental Approvals when required by law.

Section 7.3. Payment of Issuance Expenses; Release and Indemnification of Issuer.
The Company shall:

(a) indemnify and hold the Issuer harmless from and against liability for the payment of all reasonable expenses arising in connection with the issuance of the Bonds, including, without limitation, the reasonable fees and expenses of Bond Counsel and Issuer's counsel, other than expenses resulting from the gross negligence or willful misconduct of the Issuer, its officials, officers, agents or employees;

(b) indemnify and hold the Issuer harmless from and against all liability, losses, damages, costs, expenses (including reasonable attorneys' fees), taxes, causes of action, suits, claims, demands and judgments of any nature, from, by or on behalf of any Person arising in any manner out of or by reason of the issuance, offer, sale or distribution of any of the Bonds, including, without limitation, by reason of any untrue statement of any material fact or the omission to state a material fact necessary to make the statements made not misleading in any statement, information or material concerning the Bond issue, including, without limitation, any disclosure document used by the Issuer, the Company or the Underwriter in connection with the offer and sale of the Bonds, other than statements, information or material furnished by the Issuer and information on the Issuer contained in the sections of the official statement entitled "The Port of Portland" and "Litigation"; provided, however, the Company shall have no obligation to indemnify and hold the Issuer harmless from and against such liability, losses, damages, costs, expenses, attorneys' fees, taxes, causes of action, suits, claims, demands and judgments resulting from the gross negligence or willful misconduct of the Issuer, its officials, officers, agents, or employees;

(c) indemnify and hold the Issuer harmless from and against all liability, losses, damages, costs, expenses (including reasonable attorneys' fees), taxes, causes of

action, suits, claims, demands and judgments of any nature, from, by or on behalf of any Person arising in any manner out of or by reason of:

(i) any work done in connection with, or the operation or occupancy of, the Project during the Lease Term (other than work done by or at the request of the Issuer);

(ii) any breach or default on the part of the Company in the performance of any of its obligations under the Company Documents, the Ordinance or any other agreement or contract relating to the Project; or

(iii) any violation of any law, ordinance or regulation by the Company affecting the Project or any part thereof or the use thereof;

provided, however, that the Company shall have no obligation to indemnify the Issuer for any such liability, losses, damages, costs, expenses, attorneys' fees, taxes, causes of action, suits, claims, demands and judgments resulting from the gross negligence or willful misconduct of the Issuer, its officials, officers, agents or employees.

The Issuer shall promptly notify the Company in writing of any action, claim, suit, proceeding or demand for which indemnity may be sought against the Company pursuant to this Section 7.3 (hereinafter referred to as a "Claim"), setting forth the particulars of such Claim, and the Company shall, in its own name or in the name of the Issuer, be responsible for the defense of the Issuer, its officials, officers, agents and employees with regard to such Claim, and the Issuer agrees to cooperate fully with the Company and to take all action necessary, to the extent it may lawfully do so, to effect the substitution of the Company for the Issuer in such action or proceeding. The Issuer shall not settle any Claim without the prior written consent of the Company. Notwithstanding any provision to the contrary, the Company's obligation to indemnify the Issuer in accordance with this Section 7.3 for matters arising prior to termination of this Agreement shall survive termination of this Agreement.

Section 7.4. Maintenance of Existence. Company shall, for the Lease Term and for a minimum of two years thereafter, maintain its existence as an Oregon limited liability company and qualification to do business in the State and shall not dissolve or otherwise dispose of all or substantially all of its assets nor merge into or consolidate with any other entity or permit one or more entities to consolidate or merge with it, except as provided below. With the consent of the Issuer to the extent provided in the Ground Lease, Company may consolidate with or merge with another entity provided that, if any Bonds are Outstanding, it furnishes to Company and the Trustee an Approval of Bond Counsel, provided further, if Company is not the surviving, resulting or transferee entity, as the case may be, that the surviving, resulting or transferee entity assumes in writing all of the obligations of Company under the Ground Lease, the Ordinance, the Remarketing Agreement, the Facilities Lease and the Construction Contract (if still in effect) and is qualified to do business in the State and provided the Company certifies

in writing to the Issuer that such consolidation or merger will not result in a default in the Company's obligations under any Credit Facility.

Section 7.5. Requirement for Certain Notices. The Company shall give prompt written notice to the Issuer, the Trustee and the Remarketing Agent of

- (a) any Event of Default under the Company Documents or any event which, upon a lapse of time or notice or both, would become an Event of Default herein; and
- (b) the occurrence of a Determination of Taxability.

Section 7.6. Cooperation. The Company agrees that it will perform, on request of the Issuer, such reasonable acts as may be necessary or advisable to carry out the intent of the Company Documents or of the Ordinance.

Section 7.7. Access to Books and Records. The Company agrees to permit, after reasonable advance notice at any time during ordinary business hours, the Issuer or any agents or representatives thereof, to examine financial statements and any abstracts from the records and books or accounts of the Company, and visit the properties of, the Company and to discuss the affairs, finances and accounts of the Company with any of its officers or directors designated by the Company as being most qualified to discuss the applicable affairs, finances and accounts of the Company; provided, however, the Issuer (and all agents and representatives thereof) shall not disclose any such information without the prior written consent of the Company, which consent shall not be unreasonably withheld, except the Issuer may disclose such information without the Company's consent to the Issuer's successors and assigns, or to the Issuer's internal auditors and examiners, or pursuant to subpoena, public records requirements, or other order from a regulatory agency or other court order or as otherwise required by law.

Section 7.8. Compliance with Laws. Company agrees that it will at all times comply with all applicable laws, ordinances, rules and regulations of the State, the United States, Canada (if applicable to the Project and this Agreement), city, county or other public government authorities, including, but not limited to, local fire codes, zoning and occupancy codes, Issuer ordinances, the current Development Standards for Rivergate Industrial Park ("Development Standards") and any applicable published Issuer Rules and Regulations (collectively "Issuer Rules") which are applicable to this Agreement, the Ground Lease and the Project. The Company shall promptly provide the Issuer with copies of all communications from any such government entity which relates to Company's noncompliance or alleged noncompliance with any law or other government requirement applicable to Company's operations of the Project. Company acknowledges receipt of the current Rivergate Development Standards, attached as Exhibit "D" to the Ground Lease. Nothing herein stated shall prevent Company from reasonably consenting or objecting to, as provided by law, the application of these laws, rules or regulations to Company.

Section 7.9. Limitation on Facilities Lease and Assignment of Agreement; Change in Control. The provisions on assignment, sublease, mortgage and transfer set forth in Section 11 of the Ground Lease are hereby incorporated by reference as if set forth herein.

Notwithstanding the foregoing, if and only if any Bonds are Outstanding, the Issuer shall not consent to the assignment or transfer by the Company of its rights to the Project unless the Issuer shall have received an Approval of Bond Counsel.

Section 7.10. Environmental Obligations of Company. The Company covenants to comply with the environmental obligations of the Company set forth in Section 6 of the Ground Lease. Such provisions are incorporated herein by reference as if set forth herein.

Section 7.11. Environmental Indemnity. The Company covenants to comply with the environmental indemnity provisions set forth in Section 6 and Section 7.3 of the Ground Lease. Such provisions are incorporated herein by reference as if set forth herein.

ARTICLE VIII

DEFAULTS AND REMEDIES

Section 8.1. Events of Default. The following shall be "Events of Default" under this Agreement:

(a) failure by the Company on any Principal Payment Date, Interest Payment Date, or Redemption Date to pay or cause to be paid Facilities Rent when the same shall become due and payable in accordance with Section 4.1 of this Agreement;

(b) failure by the Company to pay or cause to be paid, any amount due under Section 7.3(b) of this Agreement within thirty days of the mailing of the statement or demand for such amount to the Company by the Issuer (provided, however, that such failure shall not result in an Event of Default if, and for so long as, the Company is contesting in good faith its obligation to pay such amount);

(c) failure by the Company to pay or cause to be paid Administrative Expenses, Administrative Fees, Ordinary Expenses, or Extraordinary Expenses within 30 days of invoice from the Issuer or Trustee, as applicable (except to the extent the Company is contesting the same in good faith);

(d) the Company shall:

(i) apply for, consent to the appointment of, or the taking of possession by, a receiver, custodian, trustee or liquidator of the Company or of all or a substantial part of its property,

(ii) admit in writing its inability, or be generally unable to pay its debts as such debts become due,

(iii) make a general assignment for the benefit of its creditors,

(iv) commence a voluntary case under the Bankruptcy Code,

(v) file a petition as a debtor seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts,

(vi) fail to controvert in the time provided by law and in an appropriate manner, or acquiesce in writing to, any petition filed against the Company in an involuntary case under the Bankruptcy Code, or

(vii) take any corporate action for the purpose of effecting any of the foregoing;

(e) a proceeding or case shall be commenced, without the application or consent of the Company, in any court of competent jurisdiction, seeking:

(i) the liquidation, reorganization, dissolution or winding-up, or composition or readjustment of debts of the Company,

(ii) the appointment of a trustee, receiver, custodian, liquidator or the like of the Company or of all or any substantial part of its assets, or

(iii) similar relief in respect to the Company under any law relating to bankruptcy, insolvency, reorganization, winding-up or composition or adjustment of debts,

and such proceeding or case shall continue undismissed, or an order, judgment, or decree approving or ordering the foregoing shall be entered and continue unstayed and in effect, for a period of sixty (60) days from commencement of such proceeding or case or entry of such an order, judgment or decree, or an order for relief against the Company shall be entered in an involuntary case under the Bankruptcy Code; or

(f) unless otherwise provided in this Agreement, if the Company violates any Environmental Law and/or if there is any Hazardous Substance contamination to any property for which the Company is responsible under the terms of Section 6 of the Ground Lease as provided by Section 7.10 hereof, then the Company must come into compliance with such Environmental Laws and clean up all such Hazardous Substance contamination within twenty (20) days of written notice of such violation(s) from the Issuer; provided, however, if the violation or contamination is of such a nature that it cannot be remedied by the Company prior to the expiration of that twenty (20) day period, then this provision shall be complied with if the Company is diligently pursuing such remediation and is acting in good faith to complete such remediation as quickly as is reasonably possible, provided that compliance must be achieved within the time frame mandated by any regulatory authority with enforcement authority over such Environmental Law or Hazardous Substance contamination. If the Company fails to come back into compliance as described herein, an Event of Default will be deemed to have occurred.

(g) failure by the Company to observe and perform any other covenant, condition, or agreement on its part contained in this Agreement (other than those described in paragraphs (a) through (c) or (f) above) for a period of forty-five (45) days after receipt of notice of such failure from the Issuer, provided, if the failure is of such a nature that it cannot be completely remedied within the forty-five (45) day period, this provision shall be complied with if the Company begins correction of the failure within

the forty-five (45) day period and thereafter proceeds with reasonable diligence and in good faith to effect the remedy as soon as practicable; provided, further, however, that failure by the Company to observe the tax covenants shall not constitute an Event of Default unless:

- (i) such failure results in a Determination of Taxability; and
- (ii) the Bonds are not mandatorily redeemed in accordance with their terms and as provided in the Ordinance; or
- (h) an Event of Default or "Default" shall have occurred under the Ground Lease.

Section 8.2. Remedies on Default. While any of the Bonds are Outstanding, whenever any Event of Default shall have happened and be continuing, the Issuer may take any one or more of the following steps:

(a) Take whatever action at law or in equity may appear necessary or desirable to collect any amounts then due and thereafter to become due hereunder or to enforce the observance or performance of any obligation, agreement or covenant of the Company under this Agreement.

(b) Re-enter and take possession of the Project without termination of this Agreement, and use reasonable efforts to sublease the Project for the account of the Company, holding the Company liable for the difference between the amounts paid by such sublessee and amounts due and payable by the Company hereunder.

(c) Terminate the Net Lease, exclude the Company from possession of the Project and lease the Project to another company, but holding the Company liable for all amounts payable by the Company hereunder due up to the termination date of the Net Lease; provided, however, this shall not affect the Company's continuing absolute and unconditional obligation to pay Facilities Rent in accordance with Section 4.4 hereof.

(d) In addition to the remedies available under Sections 8.2(a) through (c) above, while any of the Bonds are Outstanding and an Event of Default under Section 8.1(g) hereof shall have happened and be continuing, the Issuer may declare immediately due and payable an amount equal to:

- (i) the then-unpaid principal amount of the Outstanding Bonds, plus
- (ii) all interest on the Bonds then due and accrued to the date of such acceleration, plus
- (iii) any other amounts due hereunder.

Pursuant to this Section 8.2(d), the Issuer may terminate the Net Lease, exclude the Company from possession of the Project and lease the Project to another company, but holding the Company liable for all amounts payable by the Company under this Section 8.2(d), and sue the Company to collect such amounts.

The Issuer agrees that if identical remedies for any given Event of Default are available and enforceable under this Agreement and the Ground Lease and the Issuer elects to pursue a particular identical remedy under one agreement, then the Issuer will pursue the identical remedy under the other agreement.

Any amounts collected pursuant to action taken under this Section 8.2 shall, after payment of the costs and expenses of the proceeding resulting in the collection of such moneys and of the reasonable expenses, liabilities and advances incurred or made by the Trustee and its counsel, be deposited into the Bond Fund and applied in accordance with the provisions of the Ordinance. NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, THE PROVISIONS OF SECTION 9.2 OF THE ORDINANCE SHALL CONTROL WITH RESPECT TO THE RIGHT TO ACCELERATE THE PAYMENTS DUE UNDER THE ORDINANCE AND THE BONDS; PROVIDED, HOWEVER, THAT SECTION 9.2 OF THE ORDINANCE SHALL NOT LIMIT THE ISSUER'S RIGHTS TO EXERCISE ITS REMEDIES (INCLUDING ACCELERATION FOR AN EVENT OF DEFAULT UNDER SECTION 8.1(h) HEREOF) UNDER THIS SECTION 8.2.

Section 8.3. No Remedy Exclusive. Except as expressly provided herein, no remedy herein conferred upon or reserved to the Issuer or the Trustee is intended to be exclusive of any other available remedy or remedies but each and every such remedy shall be cumulative and shall be in addition to every other remedy herein or now or hereafter existing at law, in equity or by statute. No delay or omission to exercise any right or power accruing upon an Event of Default shall impair any such right or power or shall be construed to be a waiver thereof (unless expressly waived by the Issuer or the Trustee), but any such right or power may be exercised from time to time and as often as may be deemed expedient.

Section 8.4. No Implied Waiver. In the event any agreement, covenant or condition contained in this Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

Section 8.5. Reimbursement of Attorneys' Fees. If an Event of Default shall occur under any of the provisions hereof and the Issuer or the Trustee shall employ attorneys whether at trial, or on appeal, in bankruptcy proceedings or otherwise or incur other reasonable expenses for the collection of payments due hereunder or for the enforcement of performance or observance of any obligation or agreement on the part of the Company contained herein, the Company will reimburse the Issuer or the Trustee, as the case may be, for the reasonable fees and expenses of such attorneys and such other reasonable expenses so incurred, to the extent permitted by law. Notwithstanding the foregoing, the Company may, without causing an Event

of Default hereunder, prior to paying such fees and expenses contest in good faith the reasonableness thereof.

ARTICLE IX

OPTIONS IN FAVOR OF COMPANY

Section 9.1. Option to Terminate. The Company may cancel or terminate this Agreement at any time by giving fifty (50) days' (or such shorter period of time as shall be acceptable to the Trustee) prior written notice and paying to the Trustee, for the account of the Issuer, for deposit in the Bond Fund, Available Moneys which, when added to the amount on deposit in the Bond Fund, will be sufficient to pay, retire and redeem the Bonds including premium, if any, in accordance with the provisions of the Ordinance and payment of the expenses of redemption, any other amounts due under this Agreement to the Issuer, and Trustee's, Credit Provider's and Paying Agent's fees and making arrangement satisfactory to the Trustee for the giving of the required notice of redemption.

Upon compliance with the foregoing and the defeasance provisions contained in Article XVI of the Ordinance and the giving of notice to the Issuer in writing of such termination, such termination shall become effective.

Section 9.2 Additional Bonds. With the consent of the Issuer, which consent shall be within the sole discretion of the Issuer, and the Credit Provider, the Company may provide for the issuance of Additional Bonds in accordance with Article XVII of the Ordinance and provided the conditions set forth therein have been fulfilled.

ARTICLE X

CREDIT FACILITY

Section 10.1. Credit Facility. As a condition to the issuance of the Bonds and the execution of this Agreement, the Company has arranged for the issuance of and shall cause to be maintained a Credit Facility or Alternate Credit Facility acceptable to the Issuer in accordance with the Ordinance so long as any Bonds are Outstanding under the Ordinance. The Company covenants not to agree to or request any amendments to the Credit Facility without the prior written consent of the Issuer and in no event shall any amendment be made which would adversely affect Bondholders. Notwithstanding any other provision of this Agreement, if and to the extent the Credit Provider makes payments to the Trustee pursuant to the Credit Facility, such payments by the Credit Provider shall be deemed to be payments made by the Company under this Agreement.

Section 10.2. Provision of an Alternate Credit Facility if Bonds are to be Converted to Fixed Rate. In connection with the conversion of the Interest Rate on the Bonds to a Fixed Rate in accordance with the provisions of the Ordinance, the Company shall cause to be provided to the Trustee an Alternate Credit Facility meeting the requirements of the Ordinance.

ARTICLE XI
MISCELLANEOUS

Section 11.1. Company to Indemnify Trustee. The Company shall indemnify and hold the Trustee harmless against any loss, liability or expense, including reasonable attorneys' fees and expenses at trial and on appeal, incurred without breach of the standard of care set forth in Section 13.1 of the Ordinance, on the part of the Trustee arising out of or in connection with the acceptance or administration of the Ordinance including the costs and expenses of defense against such claim or liability. However, the Company shall not be required to indemnify the Trustee against any loss, liability or expense resulting from the Trustee's own gross negligence or willful misconduct.

Section 11.2. Term of Agreement. This Agreement shall remain in full force and effect for the Lease Term; provided, however, the term of this Agreement shall not exceed 80% of the reasonably expected useful life (as determined on the execution date hereof) of the facilities to be acquired with the proceeds of the Bonds.

Section 11.3. Notices. Except as otherwise specifically provided herein, all notices, approvals, consents, requests and other communications hereunder shall be in writing and shall be delivered by personal service or by placement in the United States or Canadian mail, postage prepaid, as certified or registered mail, return receipt requested and addressed as follows:

If to the Company: Portland Bulk Terminals, L.L.C.
 c/o James A. Larpenteur, Jr.
 Schwabe, Williamson & Wyatt, P.C.
 Pacwest Center, Suite 1800
 1211 SW Fifth Avenue
 Portland, OR 97204-3785

With a copy to: Canpotex Limited
 111 2nd Avenue South, Suite 400
 P.O. Box 1600
 Saskatoon, Saskatchewan
 Canada S7K 3R7
 Attn.: Treasurer

If to the Issuer: The Port of Portland
 P.O. Box 3529
 Portland, OR 97208-3529
 Attn: Marine Department

With a copy to:

The Port of Portland
13th Floor Port of Portland Building
700 N.E. Multnomah
Portland, Oregon 97232
Attention: Legal Department

If to the Trustee:

First Bank National Association
1000 S.W. Broadway, Suite 1750
Portland, OR 97205

If to the Remarketing Agent:

Attention: Municipal Short-Term Desk
Goldman, Sachs & Co.
85 Broad Street
New York, NY 10004

Any notice delivered by personal service shall be conclusively deemed received by the addressee upon delivery; any notice delivered by mail, as set forth herein, shall be conclusively deemed received by the addressee on the third Business Day after deposit in the mail. In order for notice to be deemed effectively given to the Issuer by mail, notice must be sent to both Issuer addresses given above and in order for notice to be effective as to the Company, a copy of the notice must also be sent to Canpotex Limited at the address given above.

A duplicate copy of each notice, certificate or other communication given hereunder by either the Issuer, the Company, or the Trustee to any one of the others shall also be given to all of the others. The Issuer, the Company, and the Trustee may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

Section 11.4. Power of Authorized Company Representative. Whenever the Company's approval is required under the provisions of this Agreement or the Issuer or the Trustee is required to take some action at the request of the Company, such approval or request shall be made by the Authorized Company Representative unless otherwise specified in this Agreement. The Issuer and the Trustee shall be authorized to act on any such approval or request and the Company shall have no complaint against the Issuer or the Trustee that such request was unauthorized.

Section 11.5. No Personal Liability.

(a) No covenant, obligation or agreement of the Issuer shall be deemed to be a covenant, obligation or agreement of any present or future Commission member, officer, agent or employee of the Issuer in other than his or her official capacity, and neither the Commission of the Issuer nor any official executing the Bonds shall be liable personally on the Bonds or be subject to any personal liability or accountability by reason of the issuance thereof or by reason

of the covenants, obligations or agreements of the Issuer contained in this Agreement or in the Ordinance.

(b) No covenant, obligation or agreement of the Company shall be deemed to be a covenant, obligation or agreement of any present or future officer, agent or employee of the Company in other than his or her official capacity, and neither the officers, agents or employees of the Company nor any officer executing this Agreement shall be subject to any personal liability or accountability solely by reason of the covenants, obligations or agreements of the Company contained in this Agreement.

Section 11.6. Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon the Issuer, the Company, the Trustee and their respective successors and assigns.

Section 11.7. Severability. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 11.8. Amendments, Changes and Modifications. Except as otherwise provided in this Agreement, the Ordinance or the Supplemental Action, subsequent to the issuance of the Bonds and prior to their payment in full (or provisions therefor made in accordance with the Ordinance), this Agreement may not be amended, changed, modified, altered or terminated except as provided in Article XV of the Ordinance.

Section 11.9. Execution in Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 11.10. Captions. The captions or headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provision of this Agreement.

Section 11.11. Law Governing Construction of Agreement. This Agreement shall be governed by and construed in accordance with the laws of the State. Venue shall be in Multnomah County, Oregon. All parties to this Facilities Lease hereby agree to submit to this jurisdiction.

Section 11.12. No Rights Created in Third Parties. The terms of this Agreement are not intended to establish nor to create any rights in any persons other than the Issuer, the Company, the Trustee, and the respective successors of each.


Section 11.13. Consents. Except as otherwise provided herein, whenever either party's consent or approval is required under this Agreement, the party shall promptly exercise its judgment in a reasonable manner.

Section 11.14. Investments. The Company shall direct investment of the proceeds and earnings thereon pursuant to the terms of the Ordinance. The Company acknowledges that regulations of the Comptroller of the Currency under 12 CFR 12.4 grant the Company the right to receive brokerage confirmations of security transactions as they occur. The Company specifically waives such notification and will receive periodic cash transaction statements that detail all investment transactions.


Section 11.15. Continuing Disclosure in Certain Events. The Company covenants that if it elects to change Rate Periods, change the Authorized Denomination of the Bonds, or take any other action that will result in a new "primary offering" of the Bonds, within the meaning of paragraph (f)(7) of Securities and Exchange Commission Rule 15c2-12, as amended ("Rule 15c2-12"), then, as a condition precedent thereto, the Company shall: (i) enter into a written undertaking that meets the continuing disclosure requirements of paragraph (b)(5) of Rule 15c2-12, and (ii) deliver or cause to be delivered to the Issuer an opinion of Bond Counsel to the effect that the Company's undertaking satisfies the requirements of paragraph (b)(5) of Rule 15c2-12. The Company understands and agrees that, for all purposes of continuing disclosure with respect to the Bonds provided pursuant to Rule 15c2-12, the Company shall be the "obligated person," as that term is defined in subsection (f)(10) of Rule 15c2-12 and the "issuer of municipal securities" (as defined in subsection (f)(4) of Rule 15c2-12). The Company also understands and agrees that Canpotex Limited may also be an "obligated person" for purposes of Rule 15c2-12 and that the Company's undertaking, to meet the requirements of Rule 15c2-12, may also require continuing disclosure regarding Canpotex Limited. The Company further understands and agrees that the Issuer shall not be an obligated person for such purposes, and shall have no continuing disclosure responsibilities whatsoever. In connection with any new primary offering of the Bonds, and at the Company's request and expense, the Issuer may provide certain written information regarding the Issuer and its activities. Such information may be included in any offering document distributed in connection with the new primary offering. The Issuer shall have absolute discretion, however, in deciding which information concerning the Issuer is relevant and how such information shall be presented in any offering document. The Issuer shall cooperate with and provide to the Company, at the Company's request and expense, updates from time to time on the information that the Issuer may provide, but only to the extent that the Issuer deems such information material to an evaluation of the Bonds. The Company shall promptly pay any costs and expenses (including reasonable attorneys fees) that may be incurred by the Issuer in connection with the Company's compliance with this Section 11.15.

IN WITNESS WHEREOF, the Issuer and the Company have caused this Agreement to be executed in the respective corporate names, all as of the date first above written.


THE PORT OF PORTLAND

By: 
E. B. Galligan
Chief Financial Officer and
Assistant Secretary

Approved as to Form:

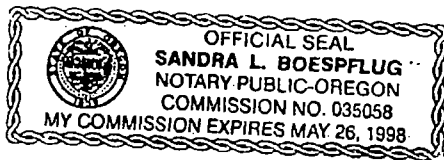
By: 
Ater Wynne Hewitt Dodson & Skerritt
Bond Counsel

PORTLAND BULK TERMINALS, L.L.C.
an Oregon limited liability company

By: 
Glen E. Shields, President

STATE OF OREGON)
) ss:
County of Multnomah)

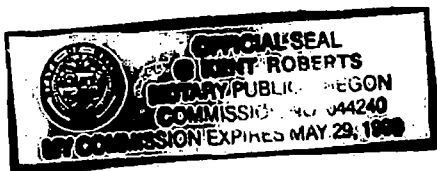
This instrument was acknowledged before me on March 13, 1996 by E.B. GALLIGAN,
Chief Financial Officer and Assistant Secretary of The Port of Portland.



By: *Sandra Boespflug*
Notary Public for Oregon
My Commission Expires *3/26/98*

STATE OF OREGON)
) ss:
County of Multnomah)

This instrument was acknowledged before me on March 13, 1996 by Glen E. Shields as President of Portland Bulk Terminals, L.L.C., an Oregon limited liability company.



By: *Kent Roberts*
Notary Public for Oregon
My Commission Expires 5/29/99

EXHIBIT A

Project Description

The Project will consist of the construction of certain bulk cargo facilities at Terminal 5 of the Issuer, including but not limited to acquisition, modification and completion of the existing bulk handling equipment at the site and construction of a double rail loop, a railcar dumper pit, a 100,000 metric ton potash storage facility, a maintenance shop and office space.

EXHIBIT B

FORM OF REQUISITION

CONSTRUCTION FUND REQUISITION NO. ____

Re: The Port of Portland Special Obligation Revenue Bonds, Series 1996 (Portland Bulk Terminals, L.L.C. Project)

To:

From: *Authorized Company Representative, Portland Bulk Terminals, L.L.C.*

Reference is hereby made to Section 4.6 of Ordinance No. 379-B (the "Ordinance") enacted by The Port of Portland (the "Issuer") on June 14, 1995 as amended and accepted by the First Bank National Association, Portland, Oregon (the "Trustee"). Defined terms used in this Requisition shall have the meanings ascribed to such terms in the Ordinance.

Pursuant to Section 4.6 of the Ordinance, you are authorized and directed to make disbursement(s) or reimbursement from The Port of Portland Special Obligation Revenue Bonds, Series 1995~~6~~ Construction Fund (Portland Bulk Terminals, L.L.C. Project) established by Section 4.6 of the Ordinance to various persons, firms and corporations, as follows:

<u>Name of Payee</u>	<u>Disbursement Directions</u>	<u>Amount to be Disbursed</u>
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It is hereby certified as to the portion of the Project to which this Requisition relates, in accordance with the Ordinance, that:

A. Each obligation identified in this Requisition to be paid from the proceeds of the Bonds identified above has been properly incurred by or on behalf of the Issuer or the Company, is a proper charge against the proceeds of the Bonds and has not been the basis of any previous disbursement of Bond proceeds;

B. Each of the obligations for which disbursement or reimbursement is requested is a proper charge against the Construction Fund. Attached hereto is a description of the purpose and circumstances of each obligation for which Bond proceeds are hereby requisitioned in reasonable detail.

C. The expenditure of the amounts to be disbursed pursuant to this Requisition that are not Qualified Project Costs (as such term is defined in the Facilities Lease), when added to all expenditures from disbursements made pursuant to previous requisitions for purposes other than Qualified Projects Costs, will not exceed 5% of the sum of \$48,000,000 plus the aggregate expected earnings on the proceeds of the Bonds.

D. No more than two percent (2%) of the proceeds of the Bonds have been or are to be applied to Costs of Issuance (including underwriter's discount) of the Bonds.

E. Except for Liens about which we have provided the Issuer prior written notice, to the best of my knowledge, no Liens for labor or materialmen are currently of record against the Project.

This Requisition is issued this ____ day of _____, 199__.

PORTLAND BULK TERMINALS, L.L.C.

Authorized Company Representative

APPROVED:

THE PORT OF PORTLAND

Authorized Issuer Representative

The undersigned hereby certifies, to the best of my knowledge, on behalf of the Company, and not in my personal capacity, to the Issuer and Trustee that the representations and warranties of the Company contained in Section 2.2 of the Facilities Lease are true and correct on the date hereof and, solely with respect to those covenants relating to the tax-exempt status of the Bonds have, at all times from the date of execution and delivery of the Facilities Lease by the Company, remained true and correct as set forth in such Section 2.2 of the Facilities Lease. To the best of my knowledge, no Event of Default, as described in Section 8.1 of the Facilities Lease, has occurred and is continuing as of the date hereof and no event has occurred which with the passage of time or the giving of notice or both would constitute an Event of Default under such Section 8.1 of the Facilities Lease.

Dated this ____ day of _____, 199_.

PORTLAND BULK TERMINALS, L.L.C.

Authorized Company Representative